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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,854	01/16/2004	Ludwik Cholewczynski	706236US2	8744
7590 01/09/2007 Donald J. Wallace DaimlerChrysler Intellectual Capital Corporation CIMS 483-02-19 800 Chrysler Drive Auburn Hills, MI 48326-2757			EXAMINER CHARLES, MARCUS	
			ART UNIT 3682	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	
3 MONTHS			01/09/2007	
			DELIVERY MODE PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/759,854

Applicant(s)

CHOLEWCZYNSKI, LUDWIK

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*; 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This is the first action relating to serial application number 10/759,854 filed 01-16-2004.

Claims 1-11 are currently pending.

### *Drawings*

1. The examiner has accepted the drawing filed with this application as formal drawing.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by JP (57-25556) to Yokoki. Yokoki discloses a flexible chain guide comprising a elongated spring leaf (6) having a fixed end and an unattached free end, the spring leaf is adapted to extend lengthwise along one side of the length of the chain and to bear against and guide the length of the chain.

In claim 7, Yokoki discloses the claimed invention including a chain and sprocket system comprising a rotatable drive and driven sprocket (2/3), an endless chain (5) transmitting rotation to the sprockets, a tension and a slack side between the drive and driven sprockets and a chain guide (as set forth above) for the slack side for the chain.

In claim 8, it is apparent that the spring flexed into pressure engagement with the slack side.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ullein et al. (6,599,209) in view of White et al. (6,155,941). In claims 1 and 2, Ullein et al. discloses a flexible chain drive comprising an elongated flexible, resilient spring leaf (6) having a fixed end (6), the spring leaf adapted to extend lengthwise along the slack side of the chain, the leaf spring is attached to a mounting bar (7) and the leaf spring and the mounting bar are of integral, one piece construction and made of plastic material (see col. 1, lines 50-65). Ullein et al. does not disclose the spring leaf is fixed at one and free at the other end. White et al. discloses a tensioner comprising a flexible guide (32) having fixed end (at 17) and an unattached free end (at 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tensioner Ullein et al. so that one end of the spring leaf (23) is free and unattached in order to allow the total length of the arm to conform to the shape of the chain, thereby, reducing undesirable deformation of the chain when under high and fluctuation loads.

In claims 3 and 6, Ullein et al. discloses the chain guide is made of polyamide

(which is nylon).

In claims 4-5, note the U-shaped metal reinforcing strip (9') in the recess.

In claim 7, Ullein et al. discloses the claimed invention above.

In claims 8, it is apparent that the spring leaf of White et al. is flexed from its natural, free state condition into pressure engagement with the chain.

In claims 9-10, Ullein et al. discloses the claimed invention as above.

In claim 11, it should be noted that White et al. discloses the U-shape recess and Ullein et al. disclose the generally U-shaped metal reinforcing lining (9') including fastener holes (19/20) in the inner and outer portion of the mounting bar.

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schulze (5,957,793), EP (1070875), Jacques et al. (6,447,416), Capucci (5,989,138), JP (57-25556) and GB (2259964) disclose a tensioner have a spring leaf section having a fixed end and an unattached free end.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Marcus Charles  
Primary Examiner  
Art Unit 3682  
January 03, 2007